



**THE CITY OF NEW YORK
LAW DEPARTMENT**

Hon. Sylvia O. Hinds-Radix
Corporation Counsel

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NEW YORK, NY 10007-2601

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December 7, 2023

Via ECF

Honorable Loretta A. Preska
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: Jaffe v. City of New York, et al., 19 Civ. 07024 (LAP)

Dear Judge Preska:

In accordance with the Court's directive, I write regarding the current dispute between the parties concerning ediscovery and set forth the reasons why the Court should adopt the compromise proposal defendants offered in an November 22, 2023 email to plaintiff's counsel. A copy of defendants' November 22, 2023 email is annexed hereto as Exhibit A-B.¹ As demonstrated below, defendants' proposal is reasonable and focused on the communications that might be relevant to this litigation, and is actually very generous to plaintiff, covering a very large number of custodians and search terms.

As the Court will recall, it was the defendants that recognized the need to reopen ediscovery because neither side had previously thought to conduct searches that included three of the four persons who replaced plaintiff and the three other high level NYPD chiefs in January 2018. See Defendants' November 6, 2023 letter, annexed hereto as Exhibit C. Shortly after raising this concern with the Court, defendants submitted a proposal to plaintiff's counsel that all prior search terms would be re-run along with the addition of the names of all four replacements (i.e., Wedin, Morris, Hofmann and Delatorre). See Ex. D hereto, defendants Oct. 26, 2023 email to plaintiff. Unfortunately, plaintiff's counsel responded by demanding that an entirely new set of custodians be added, and many other irrelevant search terms/names also be included, including Al Sharpton and Ruben Beltran, an Hispanic member of the NYPD who was

¹ Because it was the day before Thanksgiving and I had had very limited time to review the proposal I had received from plaintiff's counsel the day before, my November 22, 2023 response was handwritten. See Ex. A. I have since spoken with plaintiff's counsel and was advised that he had had no problem reading my handwriting, but for the convenience of the Court, I had someone with better handwriting create a more legible version, which is annexed as Exhibit B.

considered but not selected for the position of Commanding Officer of Staten Island in January 2018. See, e.g., Ex. E hereto, Plaintiff's November 16, 2023 email and our November 17, 2023 email response.

As even plaintiff's own Second Amended Complaint makes clear, plaintiff's request that defendants search specifically for Mr. Beltran is irrelevant, and will only increase the burden of the project defendants have agreed to undertake. As demonstrated by the Second Amended Complaint, plaintiff's claims herein are based on allegations that defendants targeted plaintiff and three other high level white NYPD police chiefs (*i.e.*, Fox, Purtell and Pizzutti) for forced retirement in January 2018 so that they could be replaced with persons of color. See Exhibit F hereto (Second Amended Complaint at ¶¶ 32-33, 41). Mr. Beltran was not one of the four replacements, and even plaintiff's counsel points out that Mr. Beltran was considered or supposedly "slated," not for one of the four high level chief positions, but rather for the position of Commanding Officer for Staten Island. See Ex. E at p. 2, Nov. 16, 2023 email from plaintiff's counsel. Moreover, the person who was selected for Commanding Officer of Staten Island was Kenneth Corey, a white man. Plaintiff's reasons for wanting to include Mr. Sharpton as a specific search term are murkier and dubious.

Even though this is a single plaintiff case, defendants have agreed to obtain and compile data for a large number (23) of custodians, and use a very large number of search terms. See Ex. B hereto. In an attempt reach a compromise, in response to plaintiff's demand that defendants also search numerous additional very broad terms, defendants have agreed to search for most of them, but only to the extent that such terms were used in conjunction with the persons relevant to this litigation – *i.e.*, the four Chiefs and their four replacements. This is a reasonable and standard practice, and a very fair compromise because to include very broad (and in some cases vague) terms will only result in a vast number of additional irrelevant emails being collected that would have to be reviewed. Moreover, defendants' proposed compromise is exactly the approach we used when we reached agreement with plaintiff's counsel regarding the prior round of ediscovery, which was in connection with the searches of personal data and misspelled terms that plaintiff's counsel had complained were used in prior ediscovery searches conducted by my predecessor. See Ex. G hereto October 21-25, 2022 email exchange with plaintiff's counsel).

Similarly and for the same reasons, in response to plaintiff's demand that certain political or public figures be included as search terms, we have agreed to include several such terms provided they were used in conjunction with the persons relevant to this litigation. For the Court's information, plaintiff's inquiries about such persons or "validators" were apparently prompted by deposition testimony early in this litigation. A person who had worked in the Mayor's Office of Intergovernmental Affairs testified that they would customarily solicit support or "validation" from public figures and/or political leaders when announcements were made about events or changes at mayoral agencies. See Ex. H hereto, May 11, 2021 Deposition transcript of Simcha Eichenstein at pp. 40-45. Particularly since the deposition testimony indicates that such persons or validators would have also been contacted regarding various events or announcements that had nothing to do with the NYPD or any of the events at issue in this case, the only rational way to limit searches regarding these public figures or validators is to run their names in conjunction with the persons particularly relevant to this litigation (*i.e.*, plaintiff and the other three high level chiefs who were asked to retire, and the four persons who replaced them). Furthermore, as I pointed out to plaintiff's counsel in a November 17, 2023

email (see Ex. E hereto at p. 1), while we would not search for "Sharpton" or the "Latino and Black political leadership," the fact is if there were such communications from such persons to the NYPD or City Hall custodians, such emails will be picked up if they mention any of the persons we have agreed to search for (e.g., the four chiefs, their replacements, Gomez, Monahan, etc). In other words, the very expansive compromise defendants offered in our November 22, 2023 email is more than sufficient, and the additional terms plaintiff seeks will be cumulative (to the extent relevant information is supposedly sought), and will serve only to greatly increase the burden and length of time this process will take. See In re Mortgate, 09 Civ. 02137 (LTS)(SN), 2013 U.S. Dist. LEXIS 129989 at *9 (S.D.N.Y. Sept. 11, 2013) (denying a request for certain ESI custodians because the plaintiffs had not made a showing that those custodians would be the exclusive custodians of relevant information); Robertson v. People Magazine, 14 Civ. 6759 (PAC), 2015 U.S. Dist. LEXIS 168525 at *4-6 (S.D.N.Y. Dec. 16, 2015) (Courts in the Second Circuit have long had discretion to limit discovery requests that are disproportionate to the needs of the case, and plaintiff's discovery requests extend far beyond plaintiff's claims and would significantly burden defendants). This is particularly the case with the entirely new class of custodians plaintiff now seeks to include.

Finally, defendants' concerns about the burden and amount of time this next round of ediscovery will take is not an idle one. In an effort to at least get part of the process started, we reached out to the NYPD to start the process of collecting the data from the many NYPD custodians we had offered -- based on the initial proposal I had offered to plaintiff's counsel on October 26, 2023 (which plaintiff's counsel rejected and has tried to greatly expand). As indicated by an internal communication in our office (which I will separately submit to the Court *in camera* as Exhibit I to avoid any issues of waiver of attorney-work product privilege), we were advised by the NYPD that the data collection was very large. I have since been advised that the initial amount collected was approximately 78 Gigabytes. Unfortunately, this **does not** include the City Hall custodians which will be in a separate collection, and in any event, another collection from the NYPD will have to be made in light of the fact that we have since expanded the search terms in the compromise offer we made on November 22, 2023 (i.e., Exhibit A).

In sum, and for all of the foregoing reasons, defendants respectfully request that the Court adopt defendants' November 22, 2023 compromise offer as the best and most reasonable approach for this next, and hopefully last, round of ediscovery.

Respectfully,

Lawrence J. Profeta
Assistant Corporation Counsel

cc. Plaintiff's counsel (via ECF)

EXHIBIT A

Attachment A - Plaintiff's ESI Search Parameters

November 20, 2023

Page 1 of 5

J rec'd
Nov. 21,
2023

NYPD CUSTODIAN GROUP I

A. Date Range: August 14, 2017 – January 12, 2018

*OK but
this is 9⁰ more time
more time*

B. Custodians:

1. Benjamin Tucker
 2. James O'Neill (NYPD & Personal)
 3. John Miller
 4. Raymond Spinella
 5. Tanya Meisenholder
 6. Terence Monahan (NYPD & Personal)
 7. James Duffy
 8. Larry Byrne
- Des not Shea*

C. Search Terms:

1. ((Ruben OR CM OR council* OR member OR president) w/4 Diaz)
 2. ("internal affairs" OR IAB) and (Joanne OR Jaffe)
 3. (announc* OR "press release") w/40 (promot* OR appointment* OR select* OR interview* OR captains OR chiefs OR candidate* OR firing OR fired OR retire* OR retiring OR *cityhall.nyc.gov OR "city hall" OR mayor)
 4. (fire OR fired OR firing OR terminat* OR "let go") w/20 (chief* OR star OR executive*)
 5. (mayor OR bdb OR blasio OR flonye OR "first lady" OR chirlane OR mccray OR "city hall" OR gracie) w/40 (mad OR angry OR upset OR unhappy OR furious OR surprise* OR frustrat* OR disappoint* OR involved*)
 6. (mayor OR bdb OR blasio OR flonye OR "first lady" OR chirlane OR mccray OR "city hall" OR *cityhall.nyc.gov OR gracie) w/40 (OR promot* OR appointment* OR "press release" OR select* OR interview* OR captains OR chiefs OR candidate* OR firing OR fired OR retire* OR retiring)
 7. (mayor OR bdb OR blasio OR flonye OR "first lady" OR chirlane OR mccray OR "city hall" OR *cityhall.nyc.gov OR gracie OR Roxanne OR priska) AND (meet* OR met OR interview*) AND (candidate* OR captains OR chiefs OR executive* OR promot* OR appointments)
 8. (mayor or bdb or blasio) w/30 (o'neill OR neill OR jimmy OR spinella OR Monahan OR PC OR terry)
 9. (NCO OR "neighborhood policing") w/30 (Joanne OR Jaffe)
 10. (population OR demographics OR transform*) AND (racial* OR ethnic* OR minorit* OR latin* OR hispanic* OR diversi* OR representation OR color OR POC)
 11. (race OR racial* OR color OR ethnic* OR diversi*) AND (brass OR leaders* OR captain* OR chief* OR star OR executive*)
 12. (report OR list OR spreadsheet OR excel OR table) AND (captain* OR chief* OR executive* OR ethnic* OR race OR racial* OR gender OR sex)
 13. "community affairs"
- in conjunction with
will
see it
child
replace me*

Attachment A - Plaintiff's ESI Search Parameters

November 20, 2023

Page 2 of 5

- in conjunction
with the 4 chief >
or
Gomez
or
if replaced*
- 14. "National Action Network"
 - 15. "People of Color" OR POC
 - 16. "Tina Moore"
 - 17. Aborn
 - 18. Adriano OR Espaillat
 - 19. Barry w/3 Berke
 - 20. Beltran
 - 21. Bratton
 - 22. Carlos w/3 Gomez
 - 23. Delatorre
 - 24. FOX
 - 25. gomez AND (leak* OR news OR surpris* OR upset* OR post OR moore)
 - 26. gomez AND community
 - 27. Hispanic*
 - 28. Hofmann OR Hoffman OR Hoffman
 - 29. Joanne OR Jaffe
 - 30. John w/3 Miller
 - 31. Juanita w/3 Holmes
 - 32. Larry w/3 Byrne
 - 33. Latin*
 - 34. Linder
 - 35. Morris
 - 36. Nilda OR Irrizary OR Irrizarry OR Irizarry OR Irizary
 - 37. Pizzuti
 - 38. promot* w/20 (chief* OR star OR executive*)
 - 39. Purtell
 - 40. reassign* w/20 (chief* OR star OR executive*)
 - 41. resign* w/20 (chief* OR star OR executive*)
 - 42. Rodney w/3 Harrison
 - 43. Sharpton
 - 44. Validator*
 - 45. Wedin
 - 46. Wolfe
 - 47. Ydanis OR ((CM OR council* OR member) w/4 Rodriguez)

NYPD CUSTODIAN GROUP II

A. Date Range: August 14, 2017 – January 12, 2018

B. Custodians:

- 1. Nilda Hofmann

Attachment A - Plaintiff's ESI Search Parameters

November 20, 2023

Page 3 of 5

2. Edward Delatorre
3. Rodney Harrison
4. Juanita Holmes
5. John Clune

C. Search Terms:

1. Latino*
2. Latina*
3. Hispanic*
4. "People of Color" OR POC
5. race OR racial*
6. diversi*
7. representation
8. mayor OR bdb OR deblasio OR blasio
9. flonyc OR "first lady" or chirlane OR mccray
10. "city hall"
11. gracie
12. (meet* OR appoint* OR select* OR consid* OR candidate* OR interview* OR announc*) AND (promot* OR chief* OR executive* OR star)
13. "press release"
14. Irrizary OR Irrizarry OR Irizarry OR Iriary
15. (report OR list OR spreadsheet OR excel OR table) AND (captain* OR chief* OR executive* OR ethnic* OR race OR racial* OR gender OR sex)

CITY HALL CUSTODIAN GROUP

A. Date Range: August 14, 2017 – January 12, 2018

B. Custodians:

1. Anthony Shorris
2. Bill de Blasio (City Hall & Personal)
3. Chirlane McCray (City Hall & Personal)
4. Dean Fuleihan
5. Dominic Williams
6. Emma Wolfe
7. Roxanne John
8. Simcha Eichenstein
9. Stacy Lynch
10. Austin Finan
11. Dominic Williams

OK
well
this is
going to
take some

Attachment A - Plaintiff's ESI Search Parameters
 November 20, 2023
 Page 4 of 5

- 12. Prisca Salazar-Rodriguez
- 13. Jon Paul Lupo
- 14. Marco Carrion
- 15. Andrea Hagelgans
- 16. Eric Phillips
- 17. Mike Casca

C. Search Terms:

- 1. ((Ruben OR CM OR council* OR member OR president) w/4 Diaz)
- 2. ("internal affairs" OR IAB) and (Joanne OR Jaffe)
- 3. (announc* OR "press release") w/40 (promot* OR appointment* OR select* OR interview* OR ~~captains~~ OR chiefs OR candidate* OR firing OR fired OR retire* OR retiring OR *cityhall.nyc.gov OR "city hall" OR mayor)
- 4. (fire OR fired OR firing OR terminat* OR "let go") w/20 (chief* OR star OR executive*)
- 5. (mayor OR bdb OR blasio OR flonye OR "first lady" or chirlane OR mccray OR "city hall" OR gracie) w/40 (mad OR angry OR upset OR unhappy OR furious OR surprise* OR frustrat* OR disappoint* OR involved*)
- 6. (mayor OR bdb OR blasio OR flonyc OR "first lady" or chirlane OR mccray OR "city hall" OR *cityhall.nyc.gov OR gracie) w/40 (OR promot* OR appointment* OR "press release" OR select* OR interview* OR ~~captains~~ OR chiefs OR candidate* OR firing OR fired OR retire* OR retiring)
- 7. (mayor OR bdb OR blasio OR flonyc OR "first lady" or chirlane OR mccray OR "city hall" OR *cityhall.nyc.gov OR gracie OR Roxanne OR priska) AND (meet* OR met OR interview*) AND (candidate* OR captains OR chiefs OR executive* OR promot* OR appointments)
- 8. (mayor or bdb or blasio) w/30 (o'neill OR neill OR jimmy OR spinella OR Monahan OR PC OR terry)
- 9. (NCO OR "neighborhood policing") w/30 (Joanne OR Jaffe)
- 10. (population OR demographics OR transform*) AND (racial* OR ethnic* OR minorit* OR latin* OR hispanic* OR diversi* OR representation OR color OR POC)
- 11. (race OR racial* OR color OR ethnic* OR diversi*) AND (brass OR leaders* OR captain* OR chief* OR star OR executive*)
- 12. (report OR list OR spreadsheet OR excel OR table) AND (captain* OR chief* OR executive* OR ethnic* OR race OR racial* OR gender OR sex)
- 13. "community affairs"
- 14. "National Action Network"
- 15. "People of Color" OR POC
- 16. "Tina Moore"
- 17. Aborn
- 18. Adriano OR Espaillat
- 19. Barry w/3 Berke
- 20. Beltran
- 21. Bratton

*in conjunction with the 4 chiefs
 or their replacements*

Attachment A - Plaintiff's ESI Search Parameters
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22. Carlos w/3 Gomez
23. Delatorre
24. Fox
25. gomez AND (leak* OR news OR surpris* OR upset* OR post OR moore)
26. ~~gomez AND community~~
27. ~~Hispanic*~~
28. Hofmann OR Hofman OR Hoffman
29. Joanne OR Jaffe
30. ~~John w/3 Miller~~
31. Juanita w/3 Holmes
32. ~~Larry w/3 Byrne~~
33. ~~Latin*~~
34. Linder
35. Morris
36. Nilda OR Irrizary OR Irrizarry OR Irizarry OR Irizary
37. Pizzuti
38. promot* w/20 (chief* OR star OR executive*)
39. Purtell
40. reassign* w/20 (chief* OR star OR executive*)
41. resign* w/20 (chief* OR star OR executive*)
42. Rodney w/3 Harrison
43. Sharpton
44. Validator*
45. Wedin
46. Ydanis OR ((CM OR council* OR member) w/4 Rodriguez)

in conjunction with if
chief or their
replacements

EXHIBIT B

Rec'd Nov. 21, 2023

NYPD CUSTODIAN GROUP I

A. Date Range: August 14, 2017 – January 12, 2018

B. Custodians:

1. Benjamin Tucker
2. James O'Neill (NYPD & Personal)
3. John Miller
4. Raymond Spinella
5. Tanya Meisenholder
6. Terence Monahan (NYPD & Personal)
7. James Duffy
8. Larry Byrne

Dermot Shea

ok but this
is going to take
more time

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12. (report OR list OR spreadsheet OR excel OR table) AND (captain* OR chief* OR executive* OR ethnic* OR race OR racial* OR gender OR sex)
13. "community affairs"

in conjunction
with the 4
chiefs or
replacements

10

OR
de Blasio

items circled for
in conjunction
with the 4 chiefs
OR Gomez OR
4 replacements

Attachment A - Plaintiff's ESI Search Parameters
November 20, 2023
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14. "National Action Network"
15. "People of Color" OR POC
16. "Tina Moore"
17. Aborn
18. Adriano OR Espaillat
19. Barry w/3 Berke
20. Beltran
21. Bratton
22. Carlos w/3 Gomez *Carlos w/3*
23. Delatorre
24. Fox
25. gomez AND (leak* OR news OR surpris* OR upset* OR post OR moore)
26. gomez AND community
27. Hispanic*
28. Hofmann OR Hofman OR Hoffman
29. Joanne OR Jaffe
30. John w/3 Miller
31. Juanita w/3 Holmes
32. Larry w/3 Byrne
33. Latin*
34. Linder
35. Morris
36. Nilda OR Irrizary OR Irrizarry OR Irizarry OR Irizary
37. Pizzuti
38. promot* w/20 (chief* OR star OR executive*)
39. Purtell
40. reassign* w/20 (chief* OR star OR executive*)
41. resign* w/20 (chief* OR star OR executive*)
42. Rodney w/3 Harrison
43. Sharpton
44. Validator* *Stet*
45. Wedin
46. Wolfe
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NYPD CUSTODIAN GROUP II

A. Date Range: August 14, 2017 – January 12, 2018

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Attachment A - Plaintiff's ESI Search Parameters
November 20, 2023
Page 3 of 5

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3. Rodney Harrison
4. Juanita Holmes
5. John Clune

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get

Attachment A - Plaintiff's ESI Search Parameters

November 20, 2023

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13. Jon Paul Lupo
14. Marco Carrion
15. Andrea Hagelgans
16. Eric Phillips
17. Mike Casca

*in conjunction with
4 chiefs or replacements*

C. Search Terms:

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3. (announc* OR "press release") w/40 (promo* OR appointment* OR select* OR interview* OR captains OR chiefs OR candidate* OR firing OR fired OR retire* OR retiring OR *cityhall.nyc.gov OR "city hall" OR mayor)
4. (fire OR fired OR firing OR terminat* OR "let go") w/20 (chief* OR star OR executive*)
5. (mayor OR bdb OR blasio OR flonyc OR "first lady" OR chirlane OR mccray OR "city hall" OR gracie) w/40 (mad OR angry OR upset OR unhappy OR furious OR surprise* OR frustrat* OR disappoint* OR involved*)
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9. (NCO OR "neighborhood policing") w/30 (Joanne OR Jaffe)
10. (population OR demographics OR transform*) AND (racial* OR ethnic* OR minorit* OR latin* OR hispanic* OR diversi* OR representation OR color OR POC)
11. (race OR racial* OR color OR ethnic* OR diversi*) AND (brass OR leaders* OR captain* OR chief* OR star OR executive*)
12. (report OR list OR spreadsheet OR excel OR table) AND (captain* OR chief* OR executive* OR ethnic* OR race OR racial* OR gender OR sex)
13. "community affairs"
14. "National Action Network"
15. "People of Color" OR POC
16. "Tina Moore"
17. Aborn
18. Adriano OR Espaiflat
19. Barry w/3 Berke
20. Beltran
21. Bratton

*Items circled run
in conjunction with the 4 chiefs
on their replacements*

Attachment A - Plaintiff's ESI Search Parameters

November 20, 2023

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Carlos w/3

22. Carlos w/3 Gomez
23. Delatorre
24. Fox
25. gomez AND (leak* OR news OR surpris* OR upset* OR post OR moore) —
26. gomez AND community
27. Hispanic* —
28. Hofmann OR Hofman OR Hoffman —
29. Joanne OR Jaffe
30. John w/3 Miller —
31. Juanita w/3 Holmes
32. Larry w/3 Byrne —
33. Latin* —
34. Linder
35. Morris
36. Nilda OR Irrizary OR Irrizarry OR Irizarry OR Irizary
37. Pizzuti
38. promot* w/20 (chief* OR star OR executive*) —
39. Purtell
40. reassign* w/20 (chief* OR star OR executive*) —
41. resign* w/20 (chief* OR star OR executive*) —
42. Rodney w/3 Harrison
43. Sharpton —
44. Validator*
45. Wedin
46. Ydanis OR ((CM OR council* OR member) w/4 Rodriguez)

*items circled run
in conjunction with
4 chiefs or their replacements*

EXHIBIT C



THE CITY OF NEW YORK
LAW DEPARTMENT

Hon. Sylvia O. Hinds-Radix
Corporation Counsel

100 CHURCH STREET
NEW YORK, NY 10007-2601

LAWRENCE J. PROFETA
Labor and Employment Law Division
Room 2-118
Telephone: (212) 356-2630
Email: lprofeta@law.nyc.gov

November 6, 2023

Via ECF

Honorable Loretta A. Preska
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: Jaffe v. City of New York, et al., 19-Civ-07024 (LAP)

Dear Judge Preska:

I write in response to the November 3, 2023 letter from plaintiff's counsel, which was supposed to be a report to the Court about the status of discovery. Plaintiff's counsel's letter, which was submitted with no prior discussion among counsel, is inaccurate and grossly misleading because it fails to mention certain critical facts.

Plaintiff's counsel is absolutely right that I had told the Court I would be submitting responses to plaintiff's Second and Third Document requests a week after the September 20, 2023 conference. However, nowhere in plaintiff's counsel letter, does he make any reference to the fact that on September 28, 2023, I emailed him and told him that we were voluntarily reopening electronic discovery:

Hi John,

As I think I mentioned to you, I had planned on mailing out to you yesterday, responses to plaintiff's second and third document requests. However, in the course of reviewing your requests and the discovery that has taken place in this case, I now realize that the ediscovery previously conducted needs to be supplemented. At the very least, the names of the persons who replaced the four chiefs in 2018 should have been searched and they were not. As a result, I am in the unusual position of having to raise with you the discovery that you need and could have been conducted in prior ediscovery searches. I don't understand how this happened but see that these terms were not listed by our office or even in the terms that had been proposed by [your office] right before I took over the defense of this case.

See Ex. A hereto (emphasis added).

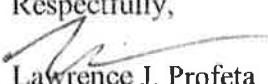
The failure of Plaintiff's counsel's November 3, 2023 letter to mention this rather critical fact is particularly surprising because in the intervening weeks, I have vainly tried to reach agreement with him about the ediscovery I believe should have been done. For example, I emailed plaintiff's counsel on October 2, 2023 and gave him the names of the three other persons who should be searched. See Ex. B hereto. On October 12, 2023, I received a letter from plaintiff's counsel which set forth a grossly expanded list of search terms -- which did not even mention two of the three chiefs who should have been searched but were not, and added irrelevant proposed search terms such as "Sharpton" and "National Action Network." Plaintiff's counsel also proposed that any search of NYPD custodians go back to January 1, 2014, and set forth their "ESI Search Parameters" "**subject to a complete reservation of Plaintiff's rights to further supplement or revise proposed custodians, search terms, and/or date restrictions**" (emphasis added). I emailed plaintiff's counsel on October 19, 2023 and told him his greatly expanded list was not reasonable and asked if we could talk. We met on October 25, 2023 at his office but were unable to reach agreement, so on October 26, 2023, I emailed him again with a revised list of proposed search terms, but we have not gotten anywhere.

As for the responses to plaintiff's Second and Third Document Requests, I twice specifically offered to provide responses to plaintiff's counsel, but I told him that the better course would be to first reach agreement on ediscovery search terms which would then be reflected in our response to these requests. Plaintiff's counsel did not object and did not request that I provide the responses -- another fact plaintiff's counsel's November 3, 2023 letter failed to mention.

Finally, I plan on providing supplemental responses to the interrogatories directed to defendant de Blasio. I apologize for the delay but they will have to be verified by Mr. de Blasio and it took time to meet with him. I will provide the supplemental responses by the end of next week.

In sum, plaintiff's counsel's November 3, 2023 letter is grossly inaccurate and misleading about the status of discovery. We are now encountering delays because of plaintiff's counsel's inability to focus on reaching agreement after I offered to reopen ediscovery. As a result, we think a conference with the Court may be necessary to ensure that the ediscovery we will voluntarily conduct is focused and does not contain so many search terms that it would take many months to complete. Furthermore, although defendants are bearing the costs of another round of ediscovery, the parties will face additional delays if subsequent ediscovery takes place in several rounds as plaintiff's counsel's October 12, 2023 letter seems to suggest.

Respectfully,


Lawrence J. Profeta
Assistant Corporation Counsel

cc. Plaintiff's counsel (via ECF)

EXHIBIT D

Profeta, Lawrence (Law)

From: Profeta, Lawrence (Law)
Sent: Thursday, October 26, 2023 10:29 AM
To: John W. Moscow; lou@lapiettrakrieger.com
Cc: Arko, Christopher (Law)
Subject: Jaffe -- ediscovery

Hi John, consistent with the email I previously sent you about the need to reopen electronic discovery, I propose that we will run (or in some cases re-run to be on the safe side) the following searches:

- Linder
- Joanne OR Jaffe
- Pizzuti
- Purtell
- Fox
- Carlos w/3 Gomez
- Nilda OR Irizarry OR Irizzarry OR Irrizarry OR Hofmann
- Community Affairs
- Neighborhood Policing
- PWC
- PriceWaterhouseCoopers or Price Waterhouse Coopers or Price Waterhouse
- Delatorre,"
- "Rodney or Harrison,"
- "Juanita or Holmes,"
- Wedin, or
- Morris

We will also run or re-run the following terms in conjunction with the terms for Jaffe, Pizzuti, Purtell, Fox or "Carlos w/3 Gomez":

- Fire*
- Firing
- Terminat*
- Let go
- Retire*
- Resign*
- Reassign*
- Black OR African American
- Of color
- POC
- Hispanic OR Latin*
- Mayor*
- De Blasio OR DeBlasio OR BDB
- Chirlane OR Chirlaine OR McCray
- First Lady
- FLONYC

And most pertinently, we will run the following terms in conjunction with the terms for "Nilda OR Irizarry OR Irizzarry OR Irrizarry OR Hofmann," Delatorre," "Rodney or Harrison," "Juanita or Holmes," Wedin, or Morris:

- Promot*
- Hispanic
- Latin*
- Mayor*
- De Blasio OR DeBlasio OR BDB
- Chirlane OR Chirlaine OR McCray
- First Lady
- FLONYC
- Ydanis
- Validator

We will run these searches for the time period August 14, 2017 to January 12, 2018. As I also mentioned to you, because we are running some terms that had never been searched for, we will have to re-collect data from the NYPD and City Hall custodians.

Let me know when would be a good time to talk about this because I would like to reach consensus before we incur the time and expense of conducting this round of ediscovery.

Thanks,
Larry

EXHIBIT E

Profeta, Lawrence (Law)

From: Profeta, Lawrence (Law)
Sent: Friday, November 17, 2023 10:41 AM
To: John W. Moscow; Arko, Christopher (Law)
Cc: lou@lapietrakrieger.com; Solomon B. Shinerock; Joshua Rothman; James MacFadyen
Subject: Re: [EXTERNAL] Further ESI searches

Hi John,

Yes, we spent almost an hour on the phone the other day trying to reach agreement on ediscovery and didn't get anywhere. To me, part of the problem is that you persist in raising numerous other matters that are unrelated to ediscovery -- which we can discuss -- but not when we are trying, and have been directed by Judge Preska, to focus on ediscovery.

I do not think that our offer to reopen ediscovery to include searches for the three chiefs who replaced the three other chiefs who were asked to retire on January 8, 2018 opens the door to adding many other unfocused and irrelevant search terms that will only greatly increase the amount of emails that will have to be reviewed and lengthen this process.

In response to your prior inquiry about Mr. Duffy, we've added him as a custodian for this round of ediscovery in the hope of locating the document you asked for. Also, in response to your ediscovery proposal, we also added Juanita Holmes and Rodney Harrison as search terms.

We are not willing to search for "Sharpton" or the "Latino and Black political leadership." The fact is if there were such communications to the NYPD or City Hall custodians, such emails will be picked up if they mention any of the persons we have agreed to search for (e.g., the four chiefs, their replacements, Gomez, Monahan, etc).

At this point, I think I have done all I can, and in light of our prior conversation and your email, we should just set forth our positions and proposals to the Judge and let her decide how we should proceed.

Thanks and have a good weekend.

Larry

From: John W. Moscow <John.Moscow@LBKMLAW.com>
Sent: Thursday, November 16, 2023 1:10 PM
To: Profeta, Lawrence (Law) <lprofeta@law.nyc.gov>; Arko, Christopher (Law) <carko@law.nyc.gov>
Cc: lou@lapietrakrieger.com <lou@lapietrakrieger.com>; Solomon B. Shinerock <Solomon.Shinerock@lbkmlaw.com>; Joshua Rothman <joshua.rothman@lbkmlaw.com>; James MacFadyen <James.MacFadyen@LBKMLAW.com>
Subject: [EXTERNAL] Further ESI searches

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Forward suspect email to phish@oti.nyc.gov as an attachment (Click the More button, then forward as attachment).

We spoke about electronic search terms and disagreed; you proposed that we each send a letter to the Court.

Before doing that I want to set out what we agree and disagree about. I have no interest in wasting the Court's time, your time or the time of Plaintiff's counsel on wasteful searches.

We agree that the NYPD did not create records relating to the decision to replace 5 of the top 14 officers (Chief of Department plus four)

If no records were created we need the City to represent that in writing.

If no records were created by the NYPD we believe that the electronic searches—the new search terms-- should be focused on the Mayoral and de Blasio family actions, involving the Latino and Black political leadership pushing for promotions of their people.

In that connection we listed various Hispanic leaders, including Rodriguez, Espaillat and Diaz; you agreed to include one in the search and not the others. We listed Al Sharpton and the National Action Network and you said no.

We asked that you include Ruben Beltran, who was apparently slated for command of Staten Island, but was removed from that slot "changing the equation", according to de Blasio. You said no.

In addition, which we did not discuss, the Defendants have not yet provided the draft of the January 8 press release sent to Jonathan Linder by Duffy and referred to by Linder. Please produce it.

I did again request the production of calendars, schedules, appointment books and diaries for DeBlasio, O'Neill and Tucker. I also request that Defendants produce the records generated by the New York Police Department's Mayoral Protective Detail for the period December 10 through December 17, 2017 reflecting where Mayor DeBlasio and where Chirlane McCray were during those days.

I request that you respond expeditiously.

John

John W. Moscow

Lewis Baach Kauf. Please produce itmann Middlemiss PLLC

The Chrysler Building
405 Lexington Avenue
62nd Floor
New York, New York 10174
t 212 822-0164

[Bio](#) | [Email](#) | [Website](#) | [vCard](#)

This communication is confidential and may contain privileged information. If you have received this communication in error, please delete it and advise the sender by reply e-mail. Thank you.
, "changing

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOANNE JAFFE,

Plaintiff,

against

CITY OF NEW YORK,
MAYOR BILL DE BLASIO, and POLICE
COMMISSIONER JAMES O'NEILL,

Defendants.

Docket No. 19-cv-07024 (LAP)

SECOND AMENDED COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, JOANNE JAFFE, as and for her complaint, by her undersigned counsel alleges as follows:

INTRODUCTION

1. After 38 years of dedicated service, Joanne Jaffe ("Chief Jaffe" or "Plaintiff"), without notice, was abruptly fired from the New York City Police Department ("NYPD") so that the Mayor of the City of New York could hold a press conference announcing that he was promoting people of color to senior executive ranks in the NYPD. Chief Jaffe, a White Jewish woman who did not fit the Mayor's political and promotional needs, was unlawfully fired to make room for someone who did.

2. This is an action to vindicate Plaintiff and to remedy violations of her rights under Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e *et seq.*, the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 *et seq.*; the Fourteenth Amendment to the United States Constitution, pursuant to 42 U.S.C. § 1983; the New York State Executive Law § 296; and the New York City Administrative Code §§ 8-107 and 8-502.

27. Gomez was the only four-star chief in the NYPD, and by far the most senior Hispanic employee in the upper ranks of the NYPD hierarchy. His departure, which he scheduled for the middle of December 2017, would noticeably diminish the diversity of the NYPD's senior leadership. The departure of Gomez also initiated a power play to fill his vacancy, and the vacancy to result from the prospective promotion of his successor. The Chief of Department job is traditionally filled by the promotion of another senior member of the NYPD, whose promotion creates another vacancy to be filled, and so on, down a chain of promotions.

28. At that time, O'Neill wanted Terry Monahan, then the Chief of Patrol, to replace Gomez.

29. It is customary for the Police Commissioner to designate his Chief of Department. Mayor de Blasio and his wife, however, had their own ideas.

30. On information and belief, the Mayor's wife, Chirlane McCray, who used the acronym "FLONYC"³ for First Lady of New York City, wanted Rodney Harrison, a Black man, to replace Gomez.

31. Mayor de Blasio and senior members of his administration had the idea that the NYPD, in particular the executive ranks, should have its staffing reconfigured along racial lines, so as to make the NYPD "demographically"⁴ representative of the current population of the City. In addition, the Mayor felt that it would serve his personal political fortunes to promote people of Hispanic heritage to high ranks in the NYPD on the basis of their race and/or ethnicity. The Mayor, O'Neill, and others decided to speed the promotion of Black people and people of Hispanic/Latin

³ That acronym is found on email chains discussing NYPD business—in which McCray appears to have been involved.

⁴ The demographic referred to appears to be racial—White, Black, Hispanic, and Asian, in that order.

American ancestry, to change the “demographics” of the executive staff and protect the Mayor’s reputation.

32. To make room for the promotion of “people of color,” vacancies had to be created either by creating new jobs or firing the people currently filling those spots. Mayor de Blasio, Police Commissioner O’Neill, and their allies chose the latter course and determined to fire four older White chiefs, all over the age of 57, rather than create new job slots. They did so without regard to the rights of the senior police officers who were to be summarily fired because of their race and age to make room for their replacements, direct and indirect.

33. Defendants decided to fire these four White chiefs so that the Mayor could claim credit (as he later did) for promoting “people of color,” Hispanic officers, and women. Of course, when the Mayor paraded in the press his efforts to promote women, he only highlighted women whom he promoted, not the ones he fired—two of whom, one being Plaintiff, were *the only two women ever before to receive three stars in the NYPD*.

34. The Mayor made no secret of the reasons behind his insistence that Chief Jaffe and the three other chiefs be removed from their positions, and no secret of his callous indifference to the removals’ consequences. On December 16, 2017, de Blasio exchanged a slew of emails with O’Neill in which he impressed upon O’Neill the urgency of the terminations to avoid the “*situation*” caused by Gomez’s departure,⁵ which he believed would “*only exacerbate the demographic tensions*” in the city, i.e., the political pressure from Hispanic community leadership. The Mayor regarded the damage he and O’Neill were plotting to cause Chief Jaffe and the others by the proposed unlawful conduct as “*the human reality for a few individuals*.”

⁵ I.e., leaving the NYPD without senior Hispanic leadership.

35. De Blasio, O'Neill, and others had made the decision to fire Chief Jaffe and her colleagues by mid-December 2017 but, to avoid muddying the news impact of de Blasio's announcement regarding his promotions of people of color, the impending firings were kept secret. While O'Neill planned to, and ultimately did, carry out the terminations after the holidays in early January 2018, Mayor de Blasio requested in his December 16, 2017, correspondence with O'Neill that the terminations take place sooner so as to "*bury the departures in the pre-holiday media lull.*" In other words, de Blasio hoped to avoid scrutiny of their unlawful plan to compel the simultaneous 'resignation' of four three-star chiefs, which would have generated significant media attention and discomfort (or as O'Neill called it, "*a major distraction*") within the NYPD.

iii. Defendants' Unlawful Termination of Ms. Jaffe

36. On January 8, 2018, Chief Jaffe was called in to O'Neill's office to meet with O'Neill and Tucker; whereupon in a meeting lasting a minute or so, O'Neill ordered her to file for retirement and to be out of her office by Friday, January 12, 2018, as though she had engaged in misconduct. However, during that meeting, O'Neill made no allegations of misconduct or any terminable offense by Chief Jaffe. Chief Jaffe had never expressed an intention to retire, nor did she have any such interest. To the contrary, she intended to continue her work with the NYPD until she was reached the mandatory age of retirement. Chief Jaffe was, unmistakably, fired.

37. O'Neill presented Plaintiff with no alternatives to continue her employment, and Plaintiff could not have reasonably or tolerably continued her employment in light of the Mayor's and O'Neill's order that she quit, as they had determined that Chief Jaffe should be replaced with a younger person of color.

38. First Deputy Police Commissioner Benjamin Tucker (hereinafter "Tucker"), was the First Deputy Police Commissioner of the NYPD at the time of Chief Jaffe's termination.

Tucker, who started with the NYPD in 1969, was nominally the second in command of the NYPD and personally knew most of the senior staff. Despite his rank, his seniority, and his knowledge of the senior personnel, Tucker, a Black man, was not consulted by the Mayor or O'Neill about their planned unlawful termination of Chief Jaffe until the plan was being put into effect.

39. Although Section 13-426 of the New York City Administrative Code states that a uniformed NYPD officer cannot retire on less than 30 days' notice, Chief Jaffe was instructed during the brief Monday meeting to file her retirement papers and clear out her desk by that Friday, January 12, 2018, with only four days' notice.

40. Because Defendants removed Plaintiff from her position and workspace with less than a week's notice, in knowing violation of Section 13-426 of the New York City Administrative Code and NYPD norms, Defendants instructed Plaintiff to submit falsified time sheets as though she were working even though she would not be at work, which she refused to do.

Defendants' Discriminatory Motives and Practices

41. Fired alongside Chief Jaffe were three other three-star chiefs—each older than 57 and each White. They were disposed of so that the Mayor, who had won re-election only days earlier on a campaign centered on racial inequality, could announce a series of high-ranking promotions of men and women of color.

42. The pressure to create vacancies so that the Mayor could have his press conference was a dominant force. As Tucker explained to the other female three-star chief, Diane Pizzutti, who was also fired on January 8, 2018: "*We don't have a spot for you.*" The unstated corollary was the NYPD was firing Pizzuti to create a vacancy for someone else to fill.

43. At the time the four chiefs were fired, the crime rate was as low as it had been in decades. This was due, in part, to the service and community safety programs instituted by those

EXHIBIT G

Profeta, Lawrence (Law)

From: Profeta, Lawrence (Law)
Sent: Tuesday, October 25, 2022 10:17 AM
To: John W. Moscow; Arko, Christopher (Law)
Cc: lou@lapietrairieger.com; Solomon B. Shinerock; Nicole Hampton; Joshua Rothman
Subject: Re: [EXTERNAL] FW:

Hi John, we are generally fine with your proposed changes to the search terms, except if we are going to search "validator," it should be in conjunction with the terms regarding Nilda Hofmann. And could you please explain why you want to add "Ydanis"? This name was not even on Mackenna's proposed list -- as were certain other terms you now wish to add.

We too want to get moving on what we need to do on our end to complete paper discovery. To get this round of ediscovery done, we need your side to confirm the pertinent time period, and we have to finalize the search terms.

Also, you indicated that you wanted us to revisit prior ediscovery because certain prior search terms were misspelled. For us to see what is involved, we need to know what terms you believe were misspelled besides "Hoffman." This is the only one that we are aware of.

Please let me know, thanks.

Larry

From: John W. Moscow <John.Moscow@LBKMLAW.com>
Sent: Friday, October 21, 2022 5:50 PM
To: Profeta, Lawrence (Law) <lprofeta@law.nyc.gov>; Arko, Christopher (Law) <carko@law.nyc.gov>
Cc: lou@lapietrairieger.com <lou@lapietrairieger.com>; Solomon B. Shinerock <Solomon.Shinerock@lbkmlaw.com>; Nicole Hampton <Nicole.Hampton@lbkmlaw.com>; Joshua Rothman <joshua.rothman@lbkmlaw.com>; John W. Moscow <John.Moscow@LBKMLAW.com>
Subject: [EXTERNAL] FW:

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Larry--

Thanks for your email.

Below in red please find our revisions/additions to your proposed search terms. Obviously, we'd like to move this case along. Can we plan to speak early-mid next week about the status of the production and the scheduling of the witnesses?

I add or subtract from the email you sent me, so all changes are visible.

I look forward to hearing from you.

John

From: Profeta, Lawrence (Law) <lprofeta@law.nyc.gov>
Sent: Friday, October 21, 2022 2:11 PM
To: John W. Moscow <John.Moscow@LBKMLAW.com>
Cc: 'lou@lapietrakrieger.com' <lou@lapietrakrieger.com>; Nicole Hampton <Nicole.Hampton@lbkmlaw.com>; Joshua Rothman <joshua.rothman@lbkmlaw.com>; Arko, Christopher (Law) <carko@law.nyc.gov>
Subject: [External Email] Jaffe -- proposed search terms

Hi John, we reviewed Mackenna's proposed search terms, and propose the following search terms for this latest round of ediscovery:

- O'Neill OR ONeill OR Jimmy OR james.oneill@nypd.org OR JP.ONEILL2@nypd.org
- Monahan OR Terry OR terrence.monahan@nypd.org OR terence.monahan@nypd.org
- Spinella OR Ray OR raymond.spinella@nypd.org
- Linder OR johnlinder@icloud.com OR johnlinder2@mac.com
- Joanne OR Jaffe
- Pizzuti
- Purtell
- Fox
- Carlos w/3 Gomez
- Nilda OR Irizarry OR Irizzarry OR Irrizarry OR Hofmann
- Community Affairs
- Neighborhood Policing
- PWC
- PriceWaterhouseCoopers or Price Waterhouse Coopers or Price Waterhouse
- Walk out OR walk-out
- Validator*

We can run the following terms in conjunction with the terms for Jaffe, Pizzuti, Purtell, Fox or Gomez:

- Fire*
- Firing
- Terminat*
- Let go
- Retire*
- Resign*
- Reassign*
- Black OR African American
- Of color
- POC
- Hispanic OR Latin*
- @cityhall.nyc.gov
- Mayor*
- De Blasio OR DeBlasio OR BDB OR BCCD@cityhall.nyc.gov
- Chirlane OR Chirlaine OR McCray OR flonyc@cityhall.nyc.gov
- First Lady
- FLONYC

We can run the following terms in conjunction with the terms for Nilda Irizzarry Hofmann:

- Promot*
- Hispanic

- Latin*
- Mayor*
- De Blasio OR DeBlasio OR BDB OR BCCD@cityhall.nyc.gov
- Chirlane OR Chirlaine OR McCray OR flonyc@cityhall.nyc.gov
- First Lady
- FLONYC
- Ydanis

Thanks. Let me know when would be a good time to talk next week.

Larry

EXHIBIT H

In the Matter Of

19-cv-07024

JAFFE

v.

CITY OF NEW YORK, et al.

Deposition of Simcha Eichenstein

Tuesday, May 11, 2021



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOANNE JAFFE,

Plaintiffs,

-against-

Case No.
19-cv-07024

CITY OF NEW YORK, POLICE COMMISSIONER
JAMES O'NEILL, and FIRST DEPUTY POLICE
COMMISSIONER BENJAMIN TUCKER,

Defendants.

-----X

May 11, 2021
10:10 a.m.

DEPOSITION via remote videoconference of
SIMCHA EICHENSTEIN, in the above-entitled
action held before Binita Shrestha, a
Stenographic Court Reporter and Notary
Public within and for the State of New
York.

1 S. EICHENSTEIN

2 Q. Do you know what is on the
3 e-mails that is blacked out on my copy?

4 A. It's blacked out by me as well.
5 There's a whole bunch that's blacked out.

6 Q. Directing your attention to
7 January 2018, where were you working?

8 A. January 2018, I was at City
9 Hall. Well, 2018. This is 2018, right?

10 No. Sorry. Hold on. I just drew a
11 blank.

12 Yes, January 2018, I was at City
13 Hall on the intergovernmental affairs
14 team.

15 Q. What were the duties of the
16 intergovernmental affairs team?

17 A. I don't know that there's an
18 official mission statement, but my
19 interpretation of it is we handled the
20 intergovernmental affairs. We outreach
21 the communication between City Hall and
22 elected officials and intergovernmental
23 affairs.

24 Q. If you could -- you're speaking
25 for the record. It will be -- you need

1 S. EICHENSTEIN

2 to be understood by people who do not
3 know city government. Could you explain
4 what you mean?

5 A. Got it. Okay. Let me spell it
6 out a little bit. So the director of
7 intergovernmental affairs had under --
8 that was a transitional period, so I
9 don't want to say her or him. I'm not
10 exactly sure who was in that seat at that
11 given time.

12 But the director -- under the
13 director is what we call FLA, SLA, and
14 CLA, right? Federal legislative affairs,
15 state legislative affairs, city
16 legislative affairs.

17 Just if you need to know the
18 background of what state legislative
19 affairs, for example, is I'll pick state
20 legislative affairs because I was before
21 that in the state legislative affairs
22 team.

23 You know, there's a lot that the
24 City of New York needs out of Albany, be
25 it budgetary, legislatively. That

1 S. EICHENSTEIN

2 office, that team, the SLA team, are the,
3 quote-unquote, middle people, right, if I
4 could call it that way, that handle all
5 the relations between the city and the
6 state.

7 It's not only the mayoral
8 initiatives. It's also the agencies. So
9 everyone on SLA will have assigned to
10 them a list of agencies, right?

11 So for example, before I was in
12 government affairs, I was in SLA. I had
13 many of the Health and Human Services
14 agencies that were in my portfolio.

I'm making this up, right? But
just to understand, the Department of
Health needs, you know, X legislation
passed because that gives them authority
to do X that they want to do.

20 The Department of Health
21 legislative affairs folks and
22 intergovernmental affairs folks work with
23 SIA, and they advocate for that, and they
24 push for that in the upcoming legislative
25 session, whatever.

1 S. EICHENSTEIN

2 There is also CAU, which is the
3 mayor's office of community affairs,
4 which is under intergovernmental affairs.
5 And then there is a team of people in
6 City Hall.

7 So it was the director, which up
8 until -- I don't remember -- January -- I
9 want to say -- so Emma Wolfe was director
10 in the first term. Then she became chief
11 of staff, promoted to chief of staff.
12 Chief of staff or deputy mayor. Deputy
13 mayor. Whatever.

14 But, like, it was about that
15 period, right? December, January. I
16 don't want to get hung up on the dates,
17 exactly which date the transition was.

18 You know, so -- but -- but under
19 the director, there was a whole bunch of
20 -- I believe our titles were deputy
21 director maybe -- it was confusing. Some
22 were senior advisors. But we also had
23 our portfolios, which were our agencies,
24 right?

25 So we were the intergovernmental

S. EICHENSTEIN

2 point people for these agencies.

3 Q. Was the police department one of
4 your agencies?

A. At that point, yes.

Q. Directing your attention to your duties, was part of your job to generate political support for the mayor's position on any particular issue?

10 A. Generally speaking, we would
11 make an announcement. We would want to
12 -- I mean, every announcement is
13 different. So I just want to -- like,
14 there are different models.

15 But generally speaking, at
16 times, we would give folks the heads-up.
17 At times, we would try to find elected
18 officials, lay leaders, community members
19 to be validators, et cetera.

So I guess the answer is, in
part, yes. But that's -- that's what,
you know, part of the role is, yes.

Q. What does the word validator mean as you used it?

25 A. Validator to me is, like -- my

1 S. EICHENSTEIN

2 interpretation is if the mayor is going
3 to say X, get, you know, a senator, or a
4 assembly member, or a congress member to
5 say, you know, this is a great plan. I
6 don't know. Whatever. The bike lane
7 will serve -- it could be anything,
8 right? Validate the announcement.

9 Q. And the validation would take
10 place on Twitter? Where?

11 A. All these different -- I mean,
12 there were times that we would ask them
13 for quotes for the mayoral press release.

14 There are times that we would
15 just -- I mean, validation could mean
16 locally, like -- and sometimes it's just,
17 like, a heads-up.

18 Sometimes it's not even to say
19 anything publicly. Like, hey, we're
20 going to announce X. You're the chair of
21 that relevant committee. Whatever.

22 Right? You should know this.

23 Again, making it up. You know,
24 just -- nothing particular comes to mind.
25 But, like, you know, the health

1 S. EICHENSTEIN

2 department is going to do this. You give
3 the health committee a heads-up. You
4 know, this is what we're going to do, or
5 this is what they are going to announce.

6 Q. In effect, would you be saying
7 we would appreciate your support or
8 telling your people that this is a good
9 idea?

10 A. I mean, I'm sure at times I was
11 blunt and said, "Can you give me a
12 quote?"

13 And at other times, I was just,
14 like, "It would be great if you could" --
15 you know, every situation is different.

16 But yes, I think the definition,
17 at least in my book, of validation -- I
18 don't know if that's what it is in the
19 dictionary -- but in my book, it's like,
20 can you support this proposal and say
21 it's a good idea, et cetera.

22 Q. Did you know the details of the
23 proposal that you were asking people to
24 support?

25 Did you learn them before you

1 S. EICHENSTEIN

2 asked them to support it or not?

3 A. I mean, I'm sure there are those
4 that were a lot more familiar than
5 others. I believe I read them all in
6 advance. But like, some are a lot more
7 nuanced than others.

8 I mean, that's a broad
9 statement. I'm not sure if I have every
10 single one in my head right now over all
11 the years. But I'm sure there are those
12 I knew better than others.

13 Q. But you would ask people to
14 support them regardless of how well you
15 knew them; is that correct?

16 A. Regardless of?

17 Q. How well you knew them, you knew
18 the plans.

19 A. Yeah. I mean, I would just,
20 like -- you know, there were oftentimes I
21 would call people -- I don't know --
22 oftentimes or sometimes, I'm not sure.

23 But I remember, you know, I
24 would call people, and they would be,
25 like -- have follow-up questions that I